

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

Billy Cepero

Case No.: 2:11-cv-01421-JAD-NJK

Plaintiff

V.

Douglas Gillespie et al.,

Defendants

Order Resolving Objections to Designated Deposition Testimony

In the notices of deposition designations, the parties provided their objections to
ated deposition testimony.¹ Attached are the court's rulings on those objections, denoted
o the objection in the appropriate line of the charts. IT IS ORDERED that the objections
stained or overruled as stated on these attachments.

Whether addressed by these rulings or not, when presenting deposition testimony at trial, counsel must:

- Exclude the internal objections and any discussion about or response thereto; and
 - Exclude attorney-to-attorney colloquy.

U.S. District Judge Jennifer A. Dorsey
January 22, 2024

¹ ECF No. 271; ECF No. 273.

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8
UNITED STATES DISTRICT COURT
 9
DISTRICT OF NEVADA

10
 11 BILLY CEPERO, Case No. 2:11-cv-01421-JAD-NJK
 12 Plaintiff,
 13 vs.
 14 DOUGLAS GILLESPIE et al., Court's Ruling on Plaintiff's
 15 Defendants. Deposition Designations, Objections to
 Defendant's Deposition Designations
 and Counter-Designations

16 Plaintiff Billy Cepero submits the following deposition designations, objections and
 17 counter-designations. Plaintiff's designations and counter-designations are highlighted in the
 18 deposition transcripts attached as Exhibits 1-3.

19 **A. Plaintiff's Designations**

20 1. Mark J. Rosen, M.D.

21 PLT. DESIGNATIONS	22 DEF. OBJECTIONS	23 DEF. COUNTER DESIGNATIONS	24 Court's Ruling on Plaintiff's Objections
25 4:17-19			
26 5:17-25			
27 6:1-18			
28 7:13-25			
8:1-14			
8:21-25			
9:1-2			
9:9-12			

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PLT. DESIGNATIONS	DEF. OBJECTIONS	DEF. COUNTER DESIGNATIONS	Court's Ruling on Plaintiff's Objections
10:4-7			
10:14-25			
11:1-25			
12:1-25			
13:1-25			
14:10-25			
15:1-25			
16:1-25			
17:1-25			
18:1-25			
19:1-22			
20:9-25			
21:1-16			
21:21-23			
22:12-25			
23:1-25			
24:1-14			
25:8-20			
26:5-18			
26:23-5			
27:1-9			
27:14-22			
28:2-19			
29:1-25			
30:18-24			
31:2-25			
32:1-25			
33:1-11			
33:16-24			
40:9-25			
41:1			
42:21-23			
42:25			
43:1-4			
47:6-12			

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1 **B. Plaintiff's Objections to Defendant's Designations and Counter-Designations**

2 1. Michelle Lee Lowther

DEF. DESIGNATIONS	PLT. OBJECTIONS	PLT. COUNTER DESIGNATIONS	Court's Ruling on Plaintiff's Objections
5:6			
5:8-9			
10:21-25			
11:1			
11:5-25			
12:1-25			
13:1-23		13:24-25	
14:3-7	Hearsay	14:1-2 44:17-20	Sustained
14:11-25			
15:1-25			
16:1-25			
17:1-8			
17:16-25			
18:1-16			
18:20-25			
19:1-18		19:19-22	
23:9-14			
24:9-11		24:12-21	
25:1-25			
26:1-25	Relevance		Overruled
27:1-25			
28:1-25			
29:1-15			
34:9-25	Relevance		Sustained
35:1-25	Relevance		Sustained
36:1-8	Relevance		Sustained
38:20-25	Relevance, duplicative		Sustained
39:1-10	Relevance, duplicative, foundation		Sustained
39:13-20		39:21-25	
40:4-10		40:1-3	
41:1-25			
42:1-11		42:12-18	
42:19-21		43:2-13	

DEF. DESIGNATIONS	PLT. OBJECTIONS	PLT. COUNTER DESIGNATIONS	
		44:17-20	
45:4-7	Relevance		Sustained

2. Stacie Pace

DEF. DESIGNATIONS	PLT. OBJECTIONS	PLT. COUNTER DESIGNATIONS	Court's Ruling on Plaintiff's Objections
4:9-13		4:18-25	
5:25			
6:1-24		6:25 7:1-16 8:10-22	
9:7-20			
10:5-15			
11:6-10			
11:15-29 [sic]			
12:1-25	Hearsay	29:5-25 30:1-10 31:3-25 32:1-19	Overruled
13:1-25			
14:1-25			
15 1-25	Foundation	31:3-25 32:1-19	Overruled
16 1-25	Hearsay		Overruled
17:1		17:2	
17:13-25		33:14-25 34:1-25 35:1-25 36:1-25 37:1-14	
18:1-16		18:21-25 19:1-12 19:21-25 20:1-9 29:5-25 30:1-10 31:3-25	

1 DEF. 2 DESIGNATIONS	3 PLT. 4 OBJECTIONS	5 PLT. COUNTER 6 DESIGNATIONS	7 Court's Ruling on Plaintiff's Objections
		32:1-19 37:1-14 38:25 39:1-21	
19:13-20	No testimony	18:21-25 19:1-12 19:21-25 20:1-9 29:5-25 30:1-10 31:3-25 32:1-19 37:1-14 38:25 39:1-21	Overruled
20:13-23		19:21-25 20:1-9 22:7-22 25:17-25 26:1-21 33:14-25 34:1-25 35:1-25 36:1-25 37:1-14 38:25 39:1-21 41:9-20	

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Dated: January 17, 2024.

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UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

BILLY CEPERO,

Plaintiff,

vs.

GILLESPIE, ET AL.,

Defendants.

Case Number:
2:11-cv-01421-JAD-NJK

**COURT'S RULING ON
DEFENDANT'S OBJECTIONS
AND COUNTER-DESIGNATIONS
TO PLAINTIFF'S PAGE/LINE
DESIGNATIONS AND COUNTER-
DESIGNATIONS**

Defendant James Bonkavich ("Defendant"), hereby submits objections and counter-designations to Plaintiff's deposition designations as follows:

A. ROSEN.

<u>Pltf. Designations</u>	<u>Def. Objections</u>	<u>Court's Ruling on Objection</u>
4:17-19		
5:17-25		
6:1-18		
7:13-25	Hearsay. (7:20-21)	Overruled
8:1-14	Hearsay. (8:10-14)	Overruled
8:21-25		
9:1-2		
9:9-12	Foundation. No testimony. (9:9-12)	Overruled

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1	10:4-7	
2	10:14-25	
3	11:1-25	
4	12:1-25	
5	13:1-25	Hearsay. (13:22-25)
6		Sustained
7	14:10-25	
8	15:1-25	
9	16:1-25	
10	17:1-25	
11	18:1-25	
12	19:1-22	
13	20:9-25	Treating physician may not testify beyond scope of treatment. <i>See Rosas v. Geico Cas. Co.</i> , 218CV01200APGNJK, 2022 WL 2440953, at *2 (D. Nev. Jan. 26, 2022) (citing <i>Goodman v. Staples The Office Superstore, LLC</i> , 644 F.3d 817, 826 (9th Cir. 2011) and Rule 26(a)(2)(B)). (22:19-23:6)
14		Overruled
15	21:1-16	
16	21:21-23	
17	22:12-25	
18	23:1-25	Hearsay. Treating physician may not testify beyond scope of treatment (23:13-24:5) <i>See Rosas v. Geico Cas. Co.</i> , 218CV01200APGNJK, 2022 WL 2440953, at *2 (D. Nev. Jan. 26, 2022) (citing <i>Goodman v. Staples The Office Superstore, LLC</i> , 644 F.3d 817, 826 (9th Cir. 2011) and Rule 26(a)(2)(B)). (23:7-11)
19		Sustained
20	24:1-14	
21	25:8-20	Treating physician may not testify beyond scope of treatment. <i>See Rosas v. Geico Cas. Co.</i> , 218CV01200APGNJK, 2022 WL 2440953, at *2 (D. Nev. Jan. 26, 2022) (citing <i>Goodman v. Staples The Office Superstore, LLC</i> , 644 F.3d 817, 826 (9th Cir. 2011) and Rule 26(a)(2)(B)). (26:5-9)
22		Overruled
23		
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1	26:5-18	Foundation. Treating physician may not testify beyond scope of treatment. <i>See Rosas v. Geico Cas. Co.</i> , 218CV01200APGNJK, 2022 WL 2440953, at *2 (D. Nev. Jan. 26, 2022) (citing <i>Goodman v. Staples The Office Superstore, LLC</i> , 644 F.3d 817, 826 (9th Cir. 2011) and Rule 26(a)(2)(B)). Hearsay. Document outside of treating physician file. (26:16-25)	
2	26:23-5	Foundation. Treating physician may not testify beyond scope of treatment. <i>See Rosas v. Geico Cas. Co.</i> , 218CV01200APGNJK, 2022 WL 2440953, at *2 (D. Nev. Jan. 26, 2022) (citing <i>Goodman v. Staples The Office Superstore, LLC</i> , 644 F.3d 817, 826 (9th Cir. 2011) and Rule 26(a)(2)(B)). Hearsay. Document outside of treating physician file. (26:16-25)	
3	27:1-9	Foundation. Treating physician may not testify beyond scope of treatment. <i>See Rosas v. Geico Cas. Co.</i> , 218CV01200APGNJK, 2022 WL 2440953, at *2 (D. Nev. Jan. 26, 2022) (citing <i>Goodman v. Staples The Office Superstore, LLC</i> , 644 F.3d 817, 826 (9th Cir. 2011) and Rule 26(a)(2)(B)). Hearsay. Document outside of treating physician file. (27:1-9)	
4	27:14-22	Foundation. Treating physician may not testify beyond scope of treatment. <i>See Rosas v. Geico Cas. Co.</i> , 218CV01200APGNJK, 2022 WL 2440953, at *2 (D. Nev. Jan. 26, 2022) (citing <i>Goodman v. Staples The Office Superstore, LLC</i> , 644 F.3d 817, 826 (9th Cir. 2011) and Rule 26(a)(2)(B)). Hearsay. Document outside of treating physician file. (27:14-22)	
5	28:2-19	Foundation. Treating physician may not testify beyond scope of treatment. <i>See Rosas v. Geico Cas. Co.</i> , 218CV01200APGNJK, 2022 WL 2440953, at *2 (D. Nev. Jan. 26, 2022) (citing <i>Goodman v. Staples The Office Superstore, LLC</i> , 644 F.3d 817, 826 (9th Cir. 2011) and Rule 26(a)(2)(B)). Hearsay. Document outside of treating physician file. (28:2-9)	
6	29:1-25	Foundation. Treating physician may not testify beyond scope of treatment. <i>See Rosas v. Geico Cas. Co.</i> , 218CV01200APGNJK, 2022 WL 2440953, at *2 (D. Nev. Jan. 26, 2022) (citing <i>Goodman v. Staples The Office Superstore, LLC</i> , 644 F.3d 817, 826 (9th Cir. 2011) and Rule 26(a)(2)(B)). Hearsay. Document outside of treating physician file. (29:1-25)	

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1	30:18-24	Foundation. Speculation. An attempt at causation that fails to satisfy legal requirements. <i>See Daubert v. Merrell Dow Pharmaceuticals, Inc.</i> , 43 F.3d 1311, 1314 (9th Cir. 1995) (must be “sufficiently compelling proof that agent must have caused the damage somehow). Also, treating physician may not testify beyond scope of treatment. <i>See Rosas v. Geico Cas. Co.</i> , 218CV01200APGNJK, 2022 WL 2440953, at *2 (D. Nev. Jan. 26, 2022) (citing <i>Goodman v. Staples The Office Superstore, LLC</i> , 644 F.3d 817, 826 (9th Cir. 2011) and Rule 26(a)(2)(B)). (30:18-24)	OVERRULED
8	31:2-25	Foundation. Speculation. An attempt at causation that fails to satisfy legal requirements. <i>See Daubert v. Merrell Dow Pharmaceuticals, Inc.</i> , 43 F.3d 1311, 1314 (9th Cir. 1995) (must be “sufficiently compelling proof that agent must have caused the damage somehow). Also, treating physician may not testify beyond scope of treatment. <i>See Rosas v. Geico Cas. Co.</i> , 218CV01200APGNJK, 2022 WL 2440953, at *2 (D. Nev. Jan. 26, 2022) (citing <i>Goodman v. Staples The Office Superstore, LLC</i> , 644 F.3d 817, 826 (9th Cir. 2011) and Rule 26(a)(2)(B)). (31:2-25)	OVERRULED
15	32:1-25	Treating physician may not testify beyond scope of treatment. <i>See Rosas v. Geico Cas. Co.</i> , 218CV01200APGNJK, 2022 WL 2440953, at *2 (D. Nev. Jan. 26, 2022) (citing <i>Goodman v. Staples The Office Superstore, LLC</i> , 644 F.3d 817, 826 (9th Cir. 2011) and Rule 26(a)(2)(B)). Also, speculation. (32:1-25)	OVERRULED
19	33:1-11	Document outside of file. Treating physician may not testify beyond scope of treatment. <i>See Rosas v. Geico Cas. Co.</i> , 218CV01200APGNJK, 2022 WL 2440953, at *2 (D. Nev. Jan. 26, 2022) (citing <i>Goodman v. Staples The Office Superstore, LLC</i> , 644 F.3d 817, 826 (9th Cir. 2011) and Rule 26(a)(2)(B)). (33:1-11, 16-24.)	OVERRULED
24	33:16-24	Document outside of file. Treating physician may not testify beyond scope of treatment. <i>See Rosas v. Geico Cas. Co.</i> , 218CV01200APGNJK, 2022 WL 2440953, at *2 (D. Nev. Jan. 26, 2022) (citing <i>Goodman v. Staples The Office Superstore, LLC</i> , 644 F.3d 817, 826 (9th Cir. 2011) and Rule 26(a)(2)(B)). (33:1-11, 16-24.)	OVERRULED

1	40:9-25		
2	41:1		
3	42:21-23		
4	42:25		
5	43:1-4		
6	47:6-12	Treating physician may not testify beyond scope of treatment. <i>See Rosas v. Geico Cas. Co.</i> , 218CV01200APGNJK, 2022 WL 2440953, at *2 (D. Nev. Jan. 26, 2022) (citing <i>Goodman v.</i> <i>Staples The Office Superstore, LLC</i> , 644 F.3d 817, 826 (9th Cir. 2011) and Rule 26(a)(2)(B)). Also, speculation. (47:6-12)	Sustained

10 B. LOWTHER.

<u>Pltf.-Counter Designations</u>	<u>Def. Objections</u>	
13:24-25	Hearsay	Sustained
14:1-2	Hearsay	Sustained
14:17-20		
19:19-22		
24:12-21		
39:21-25		
40:1-3		
42:12-18		
43:2-13		
44:17-20		

24 C. PACE.

<u>Pltf. Counter- Designations</u>	<u>Def. Objections</u>	
4:18-25	Felony not admissible under FRE 609(b).	Sustained
6:25		

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1	7:1-16
2	8:10-22
3	17:2
4	18:21-25
5	19:1-12
6	19:21-25
7	20:1-9
8	22:7-22
9	25:17-25
10	26:1-21
11	29:5-25
12	30:1-10
13	31:3-25
14	32:1-19
15	33:14-25
16	34:1-25
17	35:1-25
18	36:1-25
19	37:1-14
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1	38:25	
2	39:1-21	
3	41:9-20	

5 Dated this 19th day of January, 2024.

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